

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL GARZA,

Petitioner, No. CIV S-04-0625 GEB JFM P

vs.

SCOTT KERNAN, Warden, et al.,

Respondents. ORDER

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Petitioner is a state prisoner proceeding pro se and in forma pauperis with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed January 24, 2005, this action was stayed pending exhaustion of state remedies as to two claims for relief. In the same order, petitioner was directed to notify the court in writing within thirty days from the date of any order by the California Supreme Court resolving his state exhaustion petition. On May 11, 2006, petitioner filed the required notification and a first amended petition.

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondents will be directed to file an answer to the first amended petition.

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In accordance with the above, IT IS HEREBY ORDERED that:

1. The January 24, 2005 stay is lifted and the Clerk of the Court is directed to reopen this action;

2. Respondents are directed to file an answer to the first amended petition within forty-five days from the date of this order. See Rule 4, Rules Governing Section 2254 Cases. Respondents shall include with the answer any and all transcripts or other documents relevant to the determination of the issues presented in the application. Rule 5, Rules Governing Section 2254 Cases; and

3. Petitioner's traverse, if any, is due on or before thirty days from the date respondents' answer is filed.

DATED: May 30, 2006.

John J. Walsh
UNITED STATES MAGISTRATE JUDGE

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